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6 UNITED STATES DISTRICT COURT
7 CENTRAL DISTRICT OF CALIFORNIA
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10 FRANKLIN SMITH,

11 Petitioner,

12 v.

13 CYNTHIA TAMPKINS, Warden,

14 Respondent.
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Case No. LACV 19-762-PSG (LAL)

**ORDER ACCEPTING REPORT AND
RECOMMENDATION OF UNITED
STATES MAGISTRATE JUDGE**

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17 Pursuant to 28 U.S.C. § 636, the Court has reviewed the Petition, the Magistrate Judge's
18 Report and Recommendation, Petitioner's Objections and the remaining record, and has made a
19 *de novo* determination.

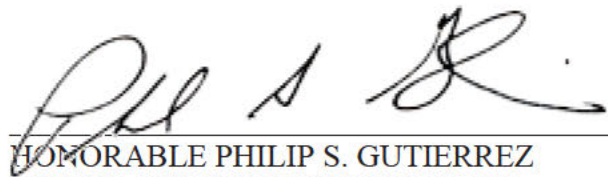
20 Petitioner is advised that the Court's disposition of his claims is not inconsistent with the
21 order of the previously assigned Magistrate Judge denying Respondent's Motion to Dismiss.
22 Although the previously assigned Magistrate Judge denied Respondent's Motion to Dismiss (see
23 CM/ECF Doc. No. 10), the judge merely addressed procedural issues of exhaustion raised by
24 Respondent and did not consider the merits of Petitioner's claims. The Report and
25 Recommendation issued by the currently assigned Magistrate Judge addresses the merits of
26 Petitioner's claims and recommends the claims be denied, as federal habeas relief is not available
27 to Petitioner.
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1 Petitioner's remaining Objections lack merit for the reasons stated in the Report and
2 Recommendation.

3 Accordingly, IT IS ORDERED THAT:

- 4 1. The Report and Recommendation is approved and accepted;
- 5 2. Judgment be entered denying the Petition and dismissing this action with
6 prejudice; and
- 7 3. The Clerk serve copies of this Order on the parties.

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10 DATED: November 19, 2019



HONORABLE PHILIP S. GUTIERREZ
UNITED STATES DISTRICT JUDGE